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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,899	06/24/2003	Robert C. Hightower	9066-28	2187
20792	7590	06/01/2006	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			TRAN, HANH VAN	
PO BOX 37428			ART UNIT	
RALEIGH, NC 27627			PAPER NUMBER	
			3637	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/602,899	HIGHTOWER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hanh V. Tran	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-13,15-23,25,26,28,29 and 31-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28,29 and 31 is/are allowed.
- 6) ☒ Claim(s) 1,6-13,15,16,18,25,26,32,34 and 35 is/are rejected.
- 7) ☒ Claim(s) 2, 4, 17, 19-23, 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/9/2006 has been entered.

***Claim Objections***

2. Claim 15 is objected to because of the following informalities: it depends on cancelled claim 14; for the purpose of this examination, the examiner is considering that claim 15 depends on claim 1. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10, and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10, line 2, the "cutout portion" lacks antecedent basis. Claim 35, "the cavity" lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 6-7, 9, 11-13, 15, and 34-35 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,947,037 to Hornberger et al.

Hornberger et al discloses a plastic corner protector 80 comprising all the elements recited in the above listed claims including, such as shown in Figs 2, 7 and 12, a generally planar outer wall, a generally planar inner wall 82 spaced apart from and extending substantially parallel to the outer wall, a side wall 86,88, a top wall 140; wherein the side wall and the outer wall connect to form an acute angle of approximately 67 degrees, while the side wall and the inner wall connect to form an obtuse angle (see attached marked-up copy), wherein a portion of the inner wall adjacent the side wall is recessed to form an opening into a cavity defined by the inner wall, the outer wall and the side wall, the side edge of the side wall directly contact a side edge of the outer wall, and a cavity includes a second opening opposite the side wall.

7. Claim 16, 18, 25-26, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 6,305,599 to Tsubaki et al.

Tsubaki et al discloses a cabinet comprising an enclosure having a plurality of walls with a plurality of corners, a protective cover 3, such as shown in Figs 3C-3D, comprising a substantially outer wall, a substantially inner wall located opposite the outer wall and extending substantially parallel to the outer wall, a side wall 124/125 connected the outer wall to the inner wall, a top member disposed between and connected to at least one of the outer wall, the inner wall and the side wall at a

substantially perpendicular angle; wherein the inner and outer walls are resilient and define a channel that runs below a lower surface of the top member, and the cavity includes a second opening opposite the side wall.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hornberger et al.

Hornberger et al discloses all the elements as discussed above except for the protective device including indicia. It is well known in the art to provide an object with indicia for the purpose of providing information; therefore, it would have been obvious to modify the structure of Hornberger et al by providing the protective device with an indicia in order to provide information thereto.

***Allowable Subject Matter***

10. Claims 2, 4, 17, 19-23, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claim 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 28-29, and 31 are allowed.

***Response to Arguments***

13. Applicant's arguments filed 5/9/2006 have been fully considered but they are not persuasive. In response to applicant's argument on page 8 that Hornberger et al does not have "generally planar walls" and "the plane defined by the side wall and the plane defined by the outer wall intersect at an acute angle", the examiner takes the position that the claimed language fails to provide adequate structural limitations in order to distinguish from Hornberger et al, and the term "generally" is broad enough that the inner and outer walls of Hornberger meet the claimed limitation.

14. Applicant's arguments with respect to claims 16, 28-29 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**Hanh V. Tran**  
**Art Unit 3637**

HVT  
May 30, 2006